

been reported by the Judiciary Committee and have been on the Senate Executive Calendar since July. But, more important, their nominations have been pending in the Senate for years—2 years in the case of Ms. Berzon and three years for Judge Paez!

It is patently unfair to ignore these fine nominations while moving forward on the Stewart nomination. I have no problem with Mr. Stewart, as far as I know. But this is an important process question, and I simply had no choice but to vote no on cloture on Stewart until we are assured of also moving ahead with those nominations which have been pending far longer.

Mr. KOHL. Mr. President, Ted Stewart, as any other nominee, deserves a vote. And eventually, I expect to vote for him, because I respect the judgment of my friend ORRIN HATCH and of the President. But there is a long line of qualified nominees ahead of him and, at least at this point, it's not right for him to "cut" in line.

For example, just compare Mr. Stewart's path with that of another qualified candidate, Tim Dyk, a nominee for the Federal Circuit. Mr. Dyk was first nominated 18 months ago, came out of Committee with strong bipartisan support, then stalled on the floor in the last days of the session because of a "secret" hold. He was nominated again eight months ago, and he has still never been placed on the agenda.

As for Mr. Stewart, he was nominated less than two months ago, and it took him just 48 hours to go from nomination, to hearing, to Committee approval. Now Mr. Stewart is up for a full Senate vote just 53 days after he was nominated. Meanwhile, five hundred and two days after Tim Dyk was nominated, he seems to be going nowhere fast.

That makes no sense to me or, I suspect, to Chairman HATCH, who also supports this nominee.

Mr. President, as with Mr. Stewart, Mr. Dyk will, I predict, be confirmed with bipartisan support. He's a first-rate intellect. He passed this Committee by a 14 to 4 vote last year, and all of us know that the Federal Circuit would be lucky to have someone of his caliber.

Like Tim Dyk and Ted Stewart, there are many other deserving nominees out there. Let's not play favorites. These nominees, who have to put their lives on hold waiting for us to act, deserve an "up or down" vote. And, more importantly, the American people deserve prompt action, so that our courts can stay on top of their workload, and continue putting criminals behind bars.

So, Mr. President, I expect to support Ted Stewart, but don't think he alone should get the timely consideration that all nominees—including Tim Dyk, Marsha Berzon and Richard Paez—deserve. So I hope we can get an agree-

ment to move forward not only Mr. Stewart, but also other deserving nominees. Thank you.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000—CONFERENCE REPORT

Mr. LOTT. Mr. President, under the previous consent agreement, I ask the Chair to lay before the Senate the conference report to accompany the DOD authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1059), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 5, 1999.)

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senate Democratic leader.

FAILURE OF REGULAR ORDER IN THE SENATE

Mr. DASCHLE. Mr. President, I wanted to have the opportunity to talk about the next four votes because it is critical that everyone understand what really is at stake tonight. Many Democratic Senators are in favor of the bankruptcy bill. Many of us have indicated publicly we support a bankruptcy bill. But we also support debate on a bankruptcy bill.

We support the opportunity to take up a bill under the regular rules of the Senate, regular order, have a good debate, have amendments offered, do what we should do in the Senate tradition, and have the kind of full and open debate we have not had on a bill since last May.

We have not brought a nonappropriations bill to the Senate floor since last May under the normal Senate rules.

Every single bill that has come before us since May has been under unanimous-consent agreements that circumvent, if not completely eliminate, the use of the normal Senate rules.

I had a clear understanding, as early as last summer, that when we brought the bankruptcy bill up, it would come up under normal Senate rules. I understand times change and circumstances change, but it is regrettable—although

not surprising—that once again cloture was filed preemptively and without good cause.

Keep in mind, when one files cloture, it calls for the end of all debate. It is amazing to me that tonight we are voting on a motion to end all debate before we have even had any debate. Not a word of debate has been uttered on the bankruptcy bill.

We find ourselves in an amazing Orwellian circumstance in which we are ending debate before it begins, calling it a debate, filing cloture, and calling it quits. We cannot do that.

Time after time, I have indicated that many of us have opportunities to stop legislation, and we will be inclined to do that if we have no opportunity to bring up amendments, as regular order would allow. Again, many of us support bankruptcy reform and want to see a bankruptcy bill, but we also want to be able to offer amendments.

If cloture is invoked tonight, many of the amendments we had agreed to prior to bringing the bill to the floor will fall—amendments that both sides agree will improve the bill. Cloture will actually prevent those relevant amendments from being considered.

I do not know why any colleague would vote to eliminate even relevant amendments, amendments for which there is agreement. We have a managers' amendment to make improvements to the bill, but under cloture it would be subject to a point of order.

We want to go to bankruptcy. I want to see if we can reach some agreement on going to bankruptcy, but we cannot continue to gag Senators and prevent them from using the normal rules of the Senate in offering amendments.

Second issue: Cloture on Mr. Stewart. I have indicated publicly that even though I have some misgivings about Mr. Stewart, I will support him. This issue is not about Mr. Stewart. This issue is about the 45 nominations that are still pending, awaiting Senate action a few weeks before the end of the session. This issue has to do with 38 nominations in committee, 24 district, 13 circuit, and 1 International Trade Court judge. This issue has to do with nominees who have been waiting for the Senate to act now since January of 1996.

Judge Richard Paez, who is currently a U.S. district court judge, was first nominated in January of 1996. Judge Paez has been waiting 3½ years for a Senate vote—3½ years. That is half a Senate term. He has been waiting half a Senate term for the Senate to act. He has been waiting for more than 1,300 days for the Senate to vote, or 25 times longer than Mr. Stewart. Mr. President, 1,300 days is a long time to wait for the Senate to act. Judge Paez is a patient man, but I do not think it is too much to ask that, up or down, we let him get on with his life, up or down he have the opportunity to have a vote,